also influenced by my preference for other texts when I said that it made very little change in the present state of affairs under Article 11 of the Covenant. In order to judge of its importance it must be remembered that according to Article 5 the votes of the parties to the dispute will not be counted in reckoning the unanimity of the Council.

"It is perhaps true that the right of the State not to comply with a recommendation which is contrary to its national security may shock at first sight. Nevertheless, I recognise that the obligation of the State to give explanations before the Council — explanations which would naturally be given at a private meeting which the representative of the adversary State would not attend — offers a strong guarantee against abuse. It goes without saying that the matter would not remain there, but that the Council would then proceed to make new recommendations in regard to other measures which, without raising the same objection, would be such as to remove the danger of aggravating the conflict.

"Even those, however, who do not wish to attribute too much importance to the provisions contained in the text of Article 3 should recognise that a Convention which contained that article, Article 1, which we have provisionally adopted as well as Articles 4 and 5, which are found in the text suggested by our Rapporteur, would have greater value than a treaty concluded in the terms of the model treaty which was approved by the Committee on Arbitration and Security and recommended to the Governments. The participation of the parties in the Council vote is excluded, not only as in the model treaty in the case of hostilities but also in all cases of threat of war, and there are more effective provisions in regard to the supervision of the carrying out of the measures recommended.

"We therefore believe that such a Convention may be considered as an appreciable advance in the work of organising peace. I have said that we are ready to accept the text of Article 3, but I should like to suggest that it should be somewhat altered. It might be of advantage to begin with the provision concerning cases in which the parties undertake absolutely to comply with the recommendation of the Council and to follow that by the other provisions. That is not a new proposal by the German delegation but simply a remodelling of the former text, "the meaning of which is fully retained."

In conclusion, Dr. Göppert proposed the following text:

"If, in the event of a threat of war, the Council, acting in virtue of the provisions of Article 11 of the Covenant of the League of Nations, recommends the withdrawal of the forces of one of the High Contracting Parties having penetrated into the territory of another State or into a zone demilitarised in virtue of international treaties, the High Contracting Party undertakes to comply therewith without delay.

"Each High Contracting Party also undertakes to conform to any other recommendation which the Council may make to it with a view to reducing the threat of war or to ending it in so far as it does not consider such recommendation incompatible with its national security; in such a case, however, it shall at once inform the Council of the grounds for its refusal to comply with the recommendation."

M. Sokal (Poland) made the following statement:

"You will remember that I reserved the possibility of speaking on the whole of Articles 3 and 4 of the draft general Convention.

"Meanwhile, I have followed the discussion on those articles with great interest, and I have noted with satisfaction that some of the principles which I put forward during the general discussion have to some extent found expression in several of the suggestions submitted to the Drafting Committee. On the one hand, account has been taken of my objections to the substitution of a new idea — "hostilities" for that of "war" or "threat of war" which appear in the Convention in force.

"On the other hand, the French delegation has very clearly explained the necessity for establishing clear and precise obligations with the necessary system of supervision and, if necessary, coercive measures; ideas already put forward by the Polish delegation. We are in agreement, on these various points, with the French delegation.

"Nevertheless, my instructions compelled me to ask that a new column should be added to the text already appearing in the synoptic table. That, I well understand, would not contribute towards bringing nearer a solution of the problem which is already so complicated.

"In order to facilitate our work as far as possible and to avoid increasing the divergencies of view, I will confine myself for the moment to submitting to my Government the results of our work and asking whether it sees any possibility of supporting one of the proposals already drawn up, with the amendments or reservations which it may think desirable to make.

"At the same time, as we do not appear as yet to have reached unanimity, I reserve the attitude of my Government in regard to the desirability, in the present state of affairs, of transforming the model treaty for strengthening the means of preventing war into a general convention."

M. Rutgers (Netherlands) made the following declaration:

"The minimum on which, if not the Committee on Arbitration, at least the majority of the delegations represented on the Drafting Committee, is able to reach agreement on this article may have some possibility of being adopted by the Assembly, but it is not certain that this agreement can lead to a convention which would be signed by a considerable number of States."
"This minimum is partly legal, partly moral, but the legal obligations which it contains are not new: not to invade the territory of another State or of demilitarised zones, these are solemn obligations which are already binding on States.

"At the same time, there are the moral obligations: to comply with pacific and reasonable recommendations is already the moral duty of every State.

"Above all, the article does not contain what we should all like to find in it; that is to say, the recognition of the power of the Council to impose on States a line of demarcation.

"Personally, I do not attach great importance to this article. It is partly legal and partly moral, but imposes neither legal nor moral obligations.

"In these conditions, I feel obliged to refrain from voting and to content myself with making a report to my Government, which will have to decide whether it is desirable to accede to the draft Convention drawn up by the Committee."

M. Ito (Japan) recalled the provisions of the Kellogg Pact which did not exclude the case of legitimate defence. He considered that it was desirable also to demand freedom for a State to refrain from complying with the decision of the Council when that State was acting in legitimate defence. Thus, the third paragraph of Article 3 (text of Baron Rolin Jaequeymyns) should be re-drafted as follows:

"In any other case, each High Contracting Party also undertakes to comply with the recommendations of the Council in so far as it does not consider them to be incompatible with its national security or is not acting in legitimate self-defence."

The Chairman considered that it was for the delegations to make reservations in the plenary meeting.

M. Ito (Japan) agreed, provided the reservations were included in the text of the Convention. The case was different if they were only to be inserted in the Minutes, for then the impression would be given that the text of the Convention had been adopted unanimously and without reservations.

The Chairman replied that in certain cases several texts were submitted and that an introductory note forming part of the text would enumerate the various reservations.

M. Ito (Japan) was completely satisfied.

Baron Rolin Jaequeymyns (Rapporteur) observed that legitimate defence was a case of national security. There would thus be a repetition which, however, raised no objection.

Viscount Cecil of Chelwood (British Empire) considered, on the contrary, that the case of legitimate defence might cover almost any actual or supposed contingency, while the term "national security" was much more clear and precise. He insisted that the case of legitimate defence should not be included.

M. Ito (Japan) was of the contrary opinion. If everyone was certain of the meaning of the expression "national security", it would be useless for the Committee on Arbitration to meet so often.

The German text of Article 3 was provisionally adopted, all the reservations put forward being maintained.

Articles 8, 9, 10 and 11.

Articles 8, 9, 10 and 11 of the British proposal were adopted in place of the text proposed by the Rapporteur.

The draft General Convention was adopted.


The representatives of the Financial Committee joined the meeting.

M. Cobian (Rapporteur) read the introductory note, which was adopted with certain formal amendments.
SEVENTH MEETING

Held on Thursday, May 8th, 1930, at 6.30 p.m.

Chairman: M. Beneš (Czechoslovakia).

Present: All the members of the Drafting Committee.


Article 5.

The CHAIRMAN opened the discussion of an amendment of the Netherlands delegation to add to Article 5 the following paragraph:

"Should one of the High Contracting Parties concerned raise any legal objection to a recommendation of the Council, the latter shall, on the request of such High Contracting Party, ask the Permanent Court of International Justice for an advisory opinion on this point, without the High Contracting Party being thereby absolved from executing the recommendation. The opinion shall be binding on the Council and on the High Contracting Parties."

The Chairman invited the Drafting Committee to give its final opinion on this question of principle, which had already been discussed.

In view of the fact that the principle underlying his proposal had raised objections in regard to the extent to which it could be connected with Article 3, M. Rutgens (Netherlands) said that he would complete his amendment in the following manner: "If in regard to a recommendation of the Council, in virtue of Article 1 . . . .".

Viscount Cecil of Chelwood (British Empire) would have had sympathy with that proposal, because he had always been of opinion that the Permanent Court should be made use of as far as possible. Nevertheless, he believed that there would be objections in principle to making it binding on the Council to ask for an advisory opinion at the request of one of the parties to the dispute. If the Council did not consider that step necessary, the result would only be embarrassing. In addition, the discussions of the Committee which dealt with the reservations of the United States of America for their adhesion to the Statute of the Court should be remembered. An agreement had been reached on which the American Senate would give its opinion, which consisted in giving to the United States the same rights in regard to advisory opinions as if they were Members of the Council. If the rights of the Members of the Council were restricted or diminished, those granted to the United States would be decreased at the same time. Undoubtedly, if the Netherlands delegate attached fundamental importance to his amendment and if the Committee was of the same opinion, nothing should prevent it from adopting a provision which it considered indispensable. It was desirable to reflect very carefully on the question and to remember that the ratification of the United States was still uncertain. On the other hand, the last phrase of the Netherlands amendment was as follows: "The opinion shall be binding on the Council and on the High Contracting Parties". It was a question, however, of an advisory opinion only; that was to say, of a measure which bound no one. To adopt such a provision would go beyond anything that had already been done in the matter, and it might be asked whether the Drafting Committee was competent to do that.

The CHAIRMAN agreed with Viscount Cecil's remarks. He added that there was a consideration of a constitutional nature against the Netherlands amendment. It was possible, on certain points, to increase the powers of the Council, but the essential principles of the Covenant could not be touched, and one of those principles was that, up to the present, a party had been unable to force the Council to go before the Permanent Court against the opinion of the other party.

M. Massigli (France) added that, according to the Netherlands proposal, the Council would be compelled to appeal to the Court, not only against the opinion of another party to the dispute, but also against its own opinion, which was still more serious.

M. Rutgers (Netherlands) explained that it was necessary to provide for cases in which one of the parties to the dispute refused to obey the recommendation of the Council on the pretext that the latter had gone beyond its competence or that its recommendation had no bearing on one of the objects of the dispute, etc. If the Netherlands proposal were accepted, that party would be obliged to comply with the recommendation of the Council, subject to resort to the Permanent Court. On the other hand, that resort would not in reality be on the initiative of the Council, but through its medium at the request of the party in question, and the procedure of utilising the Council as an intermediary for a request to the Court was not a new one. In that connection, M. Rutgers recalled the terms of Article 4, paragraph 2 (c).
of the Geneva Protocol, which stated: "... the Committee of Arbitrators, on the request of any Party, shall, through the medium of the Council, request an advisory opinion upon any points of law in dispute from the Permanent Court ...". If the last sentence of the Netherlands amendment raised objections, M. Rutgers was prepared to omit it, for he did not consider it indispensable. Once the Court had given its opinion, the effects of that opinion would follow, even in the absence of an express provision.

The Chairman continued to feel some hesitation in regard to the constitutional point of view. He recalled that in any case the question had already been discussed in a plenary meeting and that the Norwegian Government had made a proposal which seemed clearly to be in a contrary direction.

Baron Rolin Jaequemyns (Rapporteur) pointed out to the delegate of the Netherlands that the Geneva Protocol was not in force, possibly for considerations of that nature. It was a fundamental legal principle that what was prohibited directly could not be done indirectly. The effect of the text proposed by the Netherlands delegation would be to alter Article 14 of the Covenant, which simply provided that advisory opinions could be asked of the Court by the Council or the Assembly. The Netherlands amendment, however, would authorise one party to force the Council to ask for such an opinion and to comply with it. The omission of the last sentence of the Netherlands amendment would not remove the difficulty. At the moment when an effort was being made to strengthen the authority of the Council, the amendment would have a reverse effect, since it would put the Council on the same footing as the parties to the dispute. There was another consideration: the division of powers. If it were claimed that a party could be put on a footing of equality with an authority set up with its own consent, one of the principles of the Covenant and of the Convention itself would be destroyed.

In reply to Baron Rolin Jaequemyns' objection, M. Rutgers (Netherlands) proposed to omit from his amendment the words "on the request of such High Contracting Party".

M. Tumedei (Italy) explained that the recommendations of the Council were prompted less by legal than by practical considerations, since they were conservatory measures. The Council had, above all, to examine questions from the political and not from the legal point of view. Even when there was a treaty of arbitration, it was admitted that in certain cases it was always possible for the Council to make use of political considerations in the interest of the maintenance of peace. In view of the object of the conservatory measures in question, it appeared to be almost impossible to separate the legal from the political aspect, which was very important, by stating that in the legal sphere the Permanent Court should be consulted. M. Tumedei reminded the Netherlands delegate that the Committee had always been anxious not to refer to the Court questions which had non-legal aspects, for to do so would place the Court in a very difficult situation.

M. Rutgers (Netherlands) remained of the view that, if his amendment were not adopted, there would be no solution for certain conflicts. Nevertheless, in view of the opposition of his colleagues, he would withdraw it.

Article 5 as submitted to the Drafting Committee was adopted.

Article 6 adopted.

Article 7.

The Chairman said that the French delegation proposed (Annex II) to replace the words "entailing any change in" by the word "restricting".

Adopted.

The text was adopted in the following form as the result of a suggestion made by M. Massigli:

"The present Convention may not be interpreted as restricting in any way whatever the task and the powers of the Council of the League of Nations as laid down in the Covenant."

The Chairman recalled that there was a British proposal in the synoptic table.

Viscount Cecil of Chelwood (British Empire) withdrew this proposal.

Formal Articles.

Baron Rolin Jaequemyns (Rapporteur) explained that the British proposal in regard to Article 8 was based on formula adopted in the Convention recently concluded at The Hague. He himself had been asked to prepare a text on the model of acts of arbitration, but it appeared to be preferable to retain the British proposal, which was in accordance with the most recent provisions and which gave satisfaction to the French delegation.

The Chairman said that when the Bureau redrafted the formal clauses it would take into account M. Massigli's proposals.
Baron ROLIN JAEQUEMYNS (Rapporteur) asked whether the blank left in Article 10 should not be filled in.

The CHAIRMAN believed that in the present state of the discussions on the Convention it was better to leave a blank. The question of ratification by the various States would depend to a great extent on the final contents of Articles 1, 2 and 3.

Viscount CECIL OF CHELWOOD (British Empire) thought that the question had been settled and that it was understood that a period of two years would be quite reasonable.

Dr. GöPPERT (Germany) reminded the Committee that he had already explained why, in the opinion of the German delegation, the entry into force of the Convention should be dependent on its ratification by a large number of States. At the present stage of the Committee's work, he supported the proposal of the Chairman to leave the passage blank.

M. ITO (Japan) also believed that a very great number of accessions was necessary before the Convention could enter into force.

Viscount CECIL OF CHELWOOD (British Empire) did not wish to insist if the German delegate preferred that the passage should be left blank. That would enable the delegations to reflect on the question, which would be decided at the next Assembly.

The CHAIRMAN believed, moreover, that everyone would agree that the work already done should be considered as a first reading. The problem was still not ripe enough to enable an entirely satisfactory result to be reached. The question would be reserved and could be discussed at the next session.

Dr. GöPPERT (Germany) asked whether the difference of opinions concerning the number of ratifications or adhesions necessary for the Convention to come into force would be mentioned in the report.

The CHAIRMAN replied in the affirmative.

Baron ROLIN JAEQUEMYNS (Rapporteur) reminded the Committee that in the Convention on Nationality signed at The Hague the accession of ten contracting parties was provided for. Would it not be possible to insert that figure, followed by a mark of interrogation in order to indicate that in the view of the Drafting Committee it would not be a question, for instance, of two members only.

The CHAIRMAN replied that the feeling of the Drafting Committee was that the number should be left blank.

Viscount CECIL OF CHELWOOD (British Empire) agreed with the Chairman.

Article 1.

The CHAIRMAN submitted an amendment of the Netherlands delegation which proposed, in order to prevent the overlapping of powers, to add to Article 1 the following text:

"This article shall not be applicable if the dispute has been submitted to the Permanent Court of International Justice, to an Arbitral Tribunal or to a Conciliation Commission, and if such organ possesses powers, under an agreement between the High Contracting Parties concerned, to order conservatory measures."

M. Massigli (France) considered that the idea behind this amendment was very reasonable but the expression of it was superfluous. Article 1 provided for cases in which the Council was dealing with a dispute. If that dispute was already before the Permanent Court or another tribunal, the Council would be lacking in political judgment if it dealt with it. In treaties of conciliation or arbitration, there was always a provision stipulating that when and so long as two parties submitted their dispute to a court the matter was not brought before the Council.

The CHAIRMAN thought that the proposal would indeed overlap with treaties of conciliation and arbitration, which for the most part were drafted in accordance with the model signed at Geneva.

Viscount CECIL OF CHELWOOD (British Empire) took as an example the case of the submission to arbitration of a dispute which was of a very acute character. Was the Netherlands delegate of opinion that in such a case the Council should not take measures?

M. Rutgers (Netherlands) was entirely in agreement with Viscount Cecil that in such cases the Council would have the right and the duty to deal with the matter. It resulted from Article 11 of the Covenant that the Council had power at all times, which could not be taken away from it by any treaty whatsoever.

M. Tumedei (Italy) reminded the Committee that, during the discussion on model treaties of conciliation and arbitration, it had been discussed whether, in the event of the question
having already been entrusted to a special organ in virtue of a particular treaty, the Council would always have the right to take provisional measures.

The conclusion had been in the affirmative, for the reason that the Council would consider the question from a wider point of view than the body to which the dispute had been referred. The delegate of Italy recalled the provisions of Article 13 and explained that even if provisional measures were adopted by the Arbitral Tribunal, nevertheless it had been recognised that the Council had the right to adopt provisional measures which might be of an entirely different character.

In reply to an observation of M. Rutgers (Netherlands), the Chairman reminded the Committee that it was for a special reason that the provision had been eliminated from the General Act.

Viscount Cecil of Chelwood (British Empire) considered that, according to Article 1, the Council acted only in accordance with the powers given it by the Covenant. The Netherlands delegate, however, proposed to say that the article did not apply when the dispute was before a certain court in virtue of an agreement which was not the Covenant. The result of that would be to deprive the Council of its jurisdiction, since the clause implied that the Council could only act in accordance with the powers given it under the Covenant.

M. Rutgers (Netherlands) observed that Article 1 added to the Council's power under the Covenant, since the Council, in taking a unanimous decision without the vote of the parties concerned, could impose measures on those parties.

Viscount Cecil of Chelwood (British Empire) considered that that added nothing to the Council's power under the Covenant. It simply said that the parties undertook to apply the recommendations of the Council, but the recommendations were those made in virtue of the powers given in Article 11.

M. Rutgers (Netherlands) thought that it followed from Article 1 that the parties undertook something which they would not undertake without the article. The amendment stated that the parties should not make agreements in certain cases, but the Covenant always remained applicable. In his opinion, the Covenant was not affected by the amendment.

The Chairman thought that the Netherlands amendment could be supported from the legal point of view, but the question which arose was one of expediency.

Viscount Cecil of Chelwood (British Empire) was of opinion that the amendment would only lead to complication. It was necessary to have confidence that the Council would take only reasonable measures. When a case was before another court, the Council would know what had to be done, but it would be better not to introduce into the Convention a provision which might tend to take away one of its powers.

M. Ito (Japan) reminded the Committee that the question had been discussed two years ago by the Council itself in connection with the Salamis case. Although the question had already been submitted to the Mixed Arbitral Tribunal, Greece had referred it to the Council. The latter had appointed a Committee of Jurists, who had considered what was the legal practice of the Council in such cases. The conclusion reached was that, inasmuch as it was a political body, the Council could not deal with matters already submitted to another court. In view of that legal practice, it would be undesirable to insert the Netherlands amendment.

M. Rutgers (Netherlands) did not wish to prolong the discussion and withdrew his amendment.

Preamble.

The Chairman said that the text of the Preamble would be adjusted in accordance with the discussion which had taken place in regard to the formal clauses. He recalled that the Drafting Committee had to decide whether reference should be made to the Pact of Paris. It had been suggested that the following wording should be adopted if the Committee decided in the affirmative:

"Noting that the purpose of the Covenant of the League of Nations and of the Pact of Paris in ensuring peace and conciliation might be facilitated by undertakings assumed voluntarily in advance by the States."

Viscount Cecil of Chelwood (British Empire) considered that the Preamble should be as brief and simple as possible, particularly in view of the slight result which had been reached.

After reminding the Committee that his Government had asked that reference should be made to the Pact of Paris, M. Rutgers (Netherlands) stated that he did not for the moment insist.

The Chairman noted that the Committee decided for the time being not to mention the Pact of Paris, and stated that the present text of the Preamble was adopted.
Signature of the Convention.

Proposal of M. Cornejo (Peru).

The Chairman reminded the Committee that M. Cornejo had suggested (Annex IV), the insertion of a clause to the effect that the Convention could be signed by the delegates to the Assembly in the event of States preferring not to appoint special plenipotentiaries. It seemed difficult to draw up such a provision. In any case, the author of the proposal could be satisfied since nothing contrary to his proposal was said, and the delegates usually had full powers to sign Acts adopted by the Assembly.

Viscount Cecil of Chelwood (British Empire) added that, if the text of the resolution by which the Committee had been appointed was referred to, it would be noted that the question had already been settled.

The Chairman said that the proposal could be mentioned in the report.

Article 18 of the Covenant.

The Chairman reminded the Committee of another proposal of M. Cornejo concerning Article 18 of the Covenant, which suggested that the League of Nations should refuse to register any treaty concluded as the result of a war which had taken place in violation of the Covenant. It would appear to be useful for the present session to keep to a well-arranged programme, and it might be questioned whether the Committee on Arbitration and Security had the right, at the request of one only of its members, to consider important new questions. The Chairman had discussed the matter with M. Cornejo and they had agreed that a statement should be made by the Chairman in the plenary meeting. The Chairman explained that it was for the competent bodies to ask the Committee on Arbitration and Security to deal with the matter if they so decided.

Viscount Cecil of Chelwood (British Empire), considered that it was for the Assembly to deal with such a question, and M. Cornejo could raise it before the Assembly.

Eighth Meeting

Held on Friday, May 9th, 1930, at 10 a.m.

Chairman: M. Beneš (Czechoslovakia).

Present: All the members of the Drafting Committee.


The Chairman proposed to give the preliminary draft Convention, which was the result of the work of the Drafting Committee, one last rapid review in order that the Bureau could be authorised to distribute the text to the other delegations. He drew attention to the provision which had been added to the end of Article 11, which gave each of the High Contracting Parties the right to make the entry into force of the Convention, in so far as they were concerned, conditional on the ratification or accession on behalf of certain countries named by them.

M. Massigli (France) asked for the following formula to be inserted in this article: “and without any other reservation”, in order to prevent any ambiguity. The last paragraph of Article 11 would then read as follows:

“Each of the High Contracting Parties shall have the right to inform the Secretary-General of the League of Nations at the moment of the deposit of his ratification or of the notification of his accession, and without any other reservation, that he makes the entry into force of the Convention . . . ”

The amendment proposed by M. Massigli was adopted.

The whole of the preliminary draft general Convention was adopted, together with the amendment to Article 11 proposed by the French delegation.

Baron Rolin Jaequemyns (Belgium) read his draft report, to which the text of the preliminary draft Convention would be printed as an annex.

M. Massigli (France) proposed to make the historical aspect of the question treated by paragraph 2 more precise by inserting after the first sentence, which ended with the words “submitted by the German delegation”, the following sentence: “It did not appear possible at that date to frame a draft general convention, but the outcome of the Committee’s examination was...”; the rest would be unchanged.

The amendment proposed by M. Massigli was adopted.

M. Ito (Japan) thought that the wording of paragraph 7: “In the Committee’s opinion, the study thus undertaken will be continued and uniform conclusions regarding all the articles of the proposed convention will be reached”, was rather too affirmative, and he proposed that the words “will be reached” should be replaced by the words “with the intention of reaching, if possible”.

M. Massigli (France) pointed out that this paragraph, which said that “in the opinion of the Committee the task that has been undertaken should be continued”, was in contradiction with the paragraph at the end of the draft report, which left the Assembly to decide “whether the Committee on Arbitration and Security should be charged to continue the study of the question”.

Viscount Cecil of Chelwood (British Empire) wished to say, before any alteration was made in the text, that he doubted whether it was opportune to insert either one or the other of the paragraphs in question in the report. On the one hand, it was not for the Committee on Arbitration and Security to put forward any suggestion concerning the progress of its work; that was a question for the Assembly to deal with; and, on the other hand, he himself doubted whether the best solution would be to charge the Committee on Arbitration and Security again to carry on this work.

The Chairman said that the question raised was an important one. It had been the subject of lengthy discussion at the time the report was drawn up. He thought that it was essential that, for the sake of public opinion and the Assembly, it was essential to take into account the possible future course which would probably be followed by the work of the Committee on Arbitration. He thought that, at any rate, the Committee could declare itself ready to continue this work if the Council should so decide; but, as Viscount Cecil had pointed out, the expression of this opinion might appear in the light of an invitation. It was for the Committee to decide whether no mention of this kind should be made in the report, or whether a few words on the subject should be inserted. Personally, he would be inclined to suggest that some indication of the state of affairs should be made in moderate terms in order not to discourage public opinion, which was often roused to an exaggerated extent when difficult work did not result in immediate success.

Baron Rolin Jaequemyns (Belgium) recognised the contradiction which existed in paragraph 7 and the last paragraph of the report. In order to avoid this contradiction, he proposed to omit paragraph 7 as superfluous. The question of principle that had been raised would be dealt with when the Drafting Committee came to discuss the paragraph at the end of the report.

General de Marinis (Italy) supported the proposal put forward by Viscount Cecil. He himself, while examining the report, had been surprised by the contradiction between the paragraph under discussion and that at the end of the report.

Having said that, he insisted, for reasons of policy and with a feeling of fidelity towards the League of Nations, on the necessity for following a well thought out method of not disillusioning public opinion again. It must be realised that public opinion had already suffered many disappointments, for which everyone (and General de Marinis made no exception of himself) bore a great part of the responsibility, since work of extreme complexity, the result of which was quite uncertain, had always been presented as if it were easy and sure of success. Consequently, for reasons of policy where the League of Nations was concerned, they should now speak out quite openly. If the Committee suggested that the Assembly should entrust the continuation of this work to the Committee of Arbitration and Security and that at the end of the report.

Viscount Cecil of Chelwood (British Empire) thought that, at any rate, the Committee could declare itself ready to continue this work if the Council should so decide; but, as Viscount Cecil had pointed out, the expression of this opinion might appear in the light of an invitation. It was for the Committee to decide whether no mention of this kind should be made in the report, or whether a few words on the subject should be inserted. Personally, he would be inclined to suggest that some indication of the state of affairs should be made in moderate terms in order not to discourage public opinion, which was often roused to an exaggerated extent when difficult work did not result in immediate success.

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General de Marinis was of the opinion that the line of conduct that had been followed up to now was a bad one, and of such a kind as to compromise the prestige of the League of Nations. That was why he thought that the Committee should accept the proposal made by Viscount Cecil, to which they might agree without danger, since it had been put forward by one of the original authors of the Covenant of the League and by a statesman whose complete devotion to the League was well known.

Viscount Cecil of Chelwood (British Empire) found himself in an embarrassing situation, for he could not accept the reasons which had been brought forward by General de Marinis to support the proposal that he himself had made. The objection that Viscount Cecil had
raised concerned solely the question of method. He hoped that the meeting of the Disarmament Committee which would take place next November would reach fortunate results. In any case, the Committee on Arbitration and Security had finished its work, and the present session ought to be its last. In the future, it would be the duty of another body of the League to take charge of this problem.

Viscount Cecil wished to make a formal declaration that he considered the result of the Committee's work was a real step forward. He could not accept the suggestion that nothing could be done on the lines traced out by the Covenant and imposed by the political situation. Moreover, in his opinion, an agreement was much nearer than it might seem at first sight. In his opinion, all that now remained to be done was to find the appropriate formula. He was quite convinced that it would be a serious mistake to suggest that the question should be referred again to the Committee of Arbitration and Security. That had finished its task; but he thought that perhaps another organisation of the League, for example, the Third Committee of the Assembly, could come to an agreement and arrive at some decisive result after the considerable progress that had already been made.

The Chairman wished to point out that the Bureau and the Rapporteur had had no intention, in drawing up the text before the Committee, of bringing prejudice to bear upon a question of principle. It had been thought that the final paragraph might be inserted in the report without inconvenience. But he took note of the observations of Viscount Cecil, with whom he agreed in thinking that success was still possible. In any case, it would be premature to say so now.

General de Marinis (Italy) had only taken the report before them into consideration in his speech. He did not think that it would be impossible to come to an agreement during the debates in the Preparatory Committee. He hoped for this agreement, but at the moment it seemed to him premature to suggest that the present delegates should return to Geneva in a short time, and that they would then be able to come to an agreement.

He suggested that the sentence in paragraph 5 " but in the case of others " should be completed by the words " the most important ones ", for in his opinion the Committee ought to insist upon the fact that it was in the case of the most important problems that the Committee had been unable to arrive at uniform proposals.

After an exchange of views, M. Massigli (France) proposed, in order to satisfy General de Marinis, to revise the paragraph as follows: " As regards some of these problems, the Committee succeeded in reconciling the various points of view, but in the case of others, and in particular the problem . . . " the adoption of this wording would recall quite precisely the formula which was used in the previous paragraph, where " a certain number of problems of great importance and of an extremely delicate nature " were mentioned.

Viscount Cecil of Chelwood (British Empire) supported the proposal of M. Massigli.

The proposal of M. Massigli was adopted.

General de Marinis (Italy) wished to make an observation on paragraph 6, where the text seemed to him ambiguous. As a matter of fact, he thought that the Assembly's demand had not been satisfied, but that formulae, such as preliminary draft, first reading, etc., had been used to end the paragraph which said: " other delegations made intermediate proposals or abstained or made reservations ". In fact, it could not be said that a real draft convention existed at all.

The Chairman thought that he might say that the opinion of General de Marinis was only partially true. An attempt had been made in the report to show exactly what had taken place during the debates of the Committee. The Committee had drawn up the text of the draft articles and had explained how far agreement had been possible, after taking into account the conceptions of the different delegations. In his opinion, the report reflected the discussion and reserved all the points of view that had been expressed. The Bureau and the Rapporteur had had no intention to prejudice the value of the results obtained, but there had been no wish to shut out all hope that, perhaps later, some other body of the League of Nations would succeed in obtaining more decisive results.

M. Massigli (France) suggested that General de Marinis might be satisfied if the beginning of paragraph 6 was revised as follows: " Owing to these difficulties, the Committee could only prepare a preliminary draft Convention " etc.

General de Marinis (Italy) accepted M. Massigli's suggestion, which he proposed should be completed as follows: " . . . A preliminary draft convention, setting out the texts representing ", etc. He also proposed that the word " but " should be inserted at the beginning of the sentence: " . . . other delegations made intermediate proposals ", etc.

These amendments were adopted.

After an exchange of views concerning paragraph 8 dealing with the Preamble, it was decided too keep this paragraph as it stood.

M. Rutgers (Netherlands) made an observation concerning the sentence: " These conditions are the outcome of the Covenant and cannot be modified by particular conventions " in paragraph 11. He recalled the fact that quite a number of Convention were in existence
which stipulated that the Council could deal with this or that question. He proposed to change the word "modified" to "limited", which would be more exact.

Adopted.

Viscount Cecil of Chelwood (British Empire) pointed out that the beginning of paragraph 16 did not give a quite exact idea of what had happened during the work of the Committee. He proposed that the following sentence should be inserted in the first line of that paragraph:

"Further, a number of delegations, although ready to accept the obligation of complying with any recommendations of the Council designed to safeguard peace which are not inconsistent with national safety, expressed the fear . . . ."

The amendment proposed by Viscount Cecil was adopted.

M. Massigli (France) proposed that the first sentence of paragraph 13 should be replaced by the following text:

"Recalling the German suggestions to which the draft owes its origin and which involve very important preliminary undertakings, certain delegations expressed the view that, if it was impossible to assume international obligations in advance, it was nevertheless essential, if real progress was to be made in regard to the present state of affairs, that the Convention should include limited but precise undertakings, the general powers as to recommendations conferred on the Council by Article 11 of the Covenant being in any case safeguarded. They would therefore have to be", etc.

In order to meet an objection put forward by M. Rutgers (Netherlands), M. Massigli (France) agreed to modify the text which he had proposed and to say:

"Certain delegations expressed the view that, while they thought it impossible to assume indefinite obligations in advance, they nevertheless considered it essential . . . ."

The proposal of M. Massigli was adopted subject to this modification.

M. Westman (Sweden) drew attention to the fact that it was said in paragraph 16: "The parties might, in virtue of the definite engagements", etc. He pointed out that the use of the expression "in virtue of" seemed to admit that the interpretation of the engagements contracted was a legitimate one. He thought it would be better to say: "The parties might, by appealing to the definite engagements contracted by them, etc."

The proposal of M. Westman was adopted.

Baron Rolin Jaqueymns (Belgium) proposed two purely formal amendments to the same paragraph, which were adopted without discussion.

On the demand of Dr. Göppert (Germany), it was decided that, in order to make the account of the debates more accurate, the first sentence of paragraph 17 should be replaced by the following words: "A few delegations, therefore, proposed the text given in the second column of Article 2".

After a brief exchange of views, the Committee decided to suppress the three last paragraphs of the report and to replace them by the following text:

"The Committee on Arbitration and Security, having thus acquitted itself, as far as possible, of the task entrusted to it by the Assembly's resolution, would suggest that the preliminary draft Convention, the Committee's report and the Minutes be communicated to the Members of the League for their information."

The report as a whole was adopted.¹

DRAFT GENERAL CONVENTION ON THE LINES OF THE MODEL TREATY TO STRENGTHEN THE MEANS OF PREVENTING WAR.

ANNEX I.

TEXTS PREPARED BY THE BUREAU IN ACCORDANCE WITH THE DECISIONS OF THE DRAFTING COMMITTEE, DATED MAY 3RD.

C.A.S./4th Session/Drafting Committee/5.

Article 1 (and 2).

The High Contracting Parties undertake, in the event of a dispute arising between them and being brought before the Council of the League of Nations, to accept and apply the conservatory measures of a non-military nature relating to the substance of the dispute which the Council, acting in accordance with the powers conferred on it by the Covenant of the League of Nations, may recommend with a view to preventing the aggravation of the dispute.

¹ The report in its final form is annexed to the records of the plenary meetings of the Committee.
Article 3.

Former Text amended in accordance with the British Proposals.

In the case of a threat of hostilities or in the event of hostile acts of any kind having been committed by one High Contracting Party against another, the High Contracting Parties undertake to comply with the recommendations which the Council may make to them with a view to avoiding the danger of direct contact between the troops of the opposing parties, fixing on the territory of each of the parties involved a line of demarcation behind which any forces beyond such line must be withdrawn and which must not be crossed by the land and air forces of that country.

As regards the maritime forces and the air forces employed above the sea, the High Contracting Parties undertake to adopt on a recommendation of the Council any provisional measures which the Council may judge necessary to ensure that these maritime or air forces should refrain from any act of hostility and any action likely to provoke acts of hostility from the other party.

Wording proposed by Baron Rolin Jaequemyns.

In the event of a threat of hostilities or in the event of hostile acts of any kind having been committed by one High Contracting Party against another, the High Contracting Parties undertake to comply with the measures which the Council may prescribe with a view to:

(a) The withdrawal of forces having penetrated into the territory of another State or into a zone demilitarised in virtue of international treaties;

(b) The withdrawal of naval forces beyond certain geographical limits which will be fixed by the Council for this purpose, the naval forces of the two parties, however, retaining full liberty of movement beyond those limits and the prohibited zones allowing of the necessary communications being maintained between the various territories under the authority of each party;

(c) The prohibition of military or civil aircraft of the High Contracting Parties concerned to fly over frontiers on or near which the Council shall think fit to take such measure.

If, on the frontier concerned, there is no zone demilitarised in virtue of international treaties, the High Contracting Parties further undertake to comply with any other measures which the Council may prescribe to prevent contact between the land or air forces, provided this does not involve the withdrawal of these forces further back than the exterior limits of the defence organisations of any kind existing on the frontiers of the High Contracting Parties concerned at the time when the Council of the League takes these measures.

Wording suggested by M. Undén.

Amend the last part of the old text of Article 3 as follows:

"... prescribing, in particular, the withdrawal of forces having penetrated into the territory of another State;

"The withdrawal of forces having penetrated into a zone demilitarised in virtue of international treaties;

"And, in general, the stopping or withdrawal of the land, sea or air forces outside the geographical limits which will be fixed by the Council for this purpose."
Article 4.

B. As soon as they shall have been notified of the measures decided upon by the Council in application of Article A, the High Contracting Parties concerned shall take all steps to ensure their execution without delay.

If, owing to special circumstances or hostile acts by the other party, one of the High Contracting Parties thinks it necessary, it may inform the Council that it is postponing or partial execution of the prescribed measures until the arrival on the spot of the Commissioners instructed by the Council to supervise the execution of the measures which it has prescribed for the two parties.

The High Contracting Parties undertake to grant these Commissioners all facilities for the performance of their task, whether on land or on board their respective naval forces.

The rules to be followed for the composition and working of Commissions of Control shall be embodied in executive regulations which shall be prepared by the competent organs of the League of Nations, so as to enter into force at the same time as the present Convention.

C. If any violation of the measures defined in Article A is noted by the Commissioners mentioned in Article B and continues in spite of the Council's injunctions, the Council shall notify the measures to be taken to put an end to the said violation and the High Contracting Parties undertake to comply with the recommendations it may make to them on this matter.

Should one of the parties concerned be guilty of a deliberate and persistent violation of the prescribed measures and open or resume hostilities, without the Commissioners appointed by the Council finding the other party guilty of a similar violation of the Council's prescriptions, the High Contracting Parties shall consider the action so taken as a flagrant and unprovoked act of aggression and as a resort to war within the meaning of Article 16 of the Covenant. In such case, they agree for their part to comply with the provisions of the said article as against the offending State.
Article 5.

In the cases referred to in Articles 3 and 4, the High Contracting Parties undertake to act in accordance with the recommendations of the Council, provided that they are concurred in by all the members other than the representatives of the parties to the dispute.

Article 6.

The provisions of the present Treaty shall only apply as between the High Contracting Parties.

Article 7.

The present Treaty may not be interpreted as entailing any change in the task of the Council of the League of Nations as laid down in the Covenant.

(The British delegation has reserved the right to take up again, if necessary, an amendment to add to the above text a clause as follows:

("Nor as imposing any obligation on the High Contracting Parties to cease or refrain from action taken in accordance with the recommendations of the Council. ")

Articles 8, 9, 10 and 11.

British Proposals.  Wording proposed by the Rapporteur.

Article 8.

The present Treaty shall come into force as soon as the Secretary-General of the League of Nations has received the ratifications or accessions on behalf of two Members of the League of Nations.

Article 9.

Ratifications or accessions received after the entry into force of the Treaty in accordance with Article 8 shall take effect as from the date of their receipt by the Secretary-General of the League of Nations.

Article 10.

After the expiration of . . . years from the coming into force of the present Treaty in accordance with Article 8, it may be denounced by an instrument in writing deposited with the Secretary-General of the League of Nations. The denunciation shall take effect six months after its receipt by the Secretary-General and shall operate only as regards the Member of the League on whose behalf it has been deposited.

The Secretary-General shall notify all the Members of the League of any denunciations received.

Article 11.

The present Treaty shall be registered by the Secretary-General of the League of Nations on the date of its entry into force. In faith whereof the above-mentioned plenipotentiaries have signed the present Treaty.

1. The present Treaty shall come into force on the ninetieth day following the receipt by the Secretary-General of the League of Nations of the accession of not less than . . . contracting parties.

2. Accessions received after the entry into force of the Treaty, in accordance with the previous paragraph, shall become effective as from the ninetieth day following the date of receipt by the Secretary-General of the League of Nations.

1. The present Treaty shall be concluded for a period of five years, dating from its entry into force.

2. It shall remain in force for further successive periods of five years in the case of High Contracting Parties which do not denounce it at least six months before the expiration of the current period.

* Date of adoption by the Assembly.
3. Denunciation shall be effected by a written notification addressed to the Secretary-General of the League of Nations, who shall inform all the Members of the League and the non-Member States mentioned in Article 9.

4. Notwithstanding denunciation by one of the High Contracting Parties concerned in a dispute, all forms of procedure pending at the term of the expiration of the period of the Treaty shall be duly completed.

Article 12.

A copy of the present Treaty, signed by the President of the Assembly and by the Secretary-General of the League of Nations, shall be kept in the archives of the Secretariat; certified true copies of the text shall be transmitted to all Members of the League and to the non-Member States mentioned by the Council of the League of Nations.

Article 13.

The present Treaty shall be registered by the Secretary-General of the League of Nations on the date of its entry into force.

Preamble.

The Heads of the States and competent authorities of the States parties to the present Treaty, being sincerely desirous of developing mutual confidence by strengthening the means of preventing war;

Noting that to this end the task of the Council of the League of Nations in ensuring peace and conciliation might be facilitated by undertakings assumed voluntarily in advance by the States;

Have decided to achieve their common aim by agreeing on the following provisions:

ANNEX II.

C.A.S./4th Session/Drafting Committee/6.

OBSERVATIONS OF THE FRENCH DELEGATION IN REGARD TO THE TEXTS PREPARED BY THE BUREAU (Document C.A.S./4th Session/Drafting Committee/5.

Article 7. — It was understood that a special reference would be made to the powers of the Council to make recommendations conferred upon it by Article 11. No doubt the text, which is of a very general character, may appear adequate. It might, however, be desirable, in order to meet the views of various delegations, to bring out this point more clearly.

It was also stated that the word "change" might usefully be replaced by the word "restriction".

Article 8 and following articles. — The wording proposed by the Rapporteur appears to correspond to the idea of a "general act" and not to the conclusion of a "convention". If the Committee decides on this wording, it would at least be necessary to insert a stipulation that a Power, when acceding, may state that its accession will only take effect when a particular Power named by it has also acceded.

The French delegation for its part would prefer the form of convention suggested by the British delegation, with the addition of the following stipulation:

"On depositing their ratifications or accessions, the High Contracting Parties and the Powers which may subsequently become parties to the present Treaty may, to the exclusion of any other reservation, make the entry into force of the present Treaty, in so far as they are concerned, conditional upon the ratification of the Treaty by other High Contracting Parties specially named by them."

1 Alternative wording to be employed if the Committee decides to mention the Pact of Paris in the Preamble:

"Noting that the aim pursued in the Covenant of the League of Nations and in the Paris Pact in ensuring peace and conciliation might be facilitated by undertakings assumed voluntarily in advance by the States;

"Have decided . . ."
ANNEX III.

PROPOSAL BY THE BRITISH DELEGATION.

Article 3.

In any case where the Council acting under the provisions of Article 11 of the Covenant of the League of Nations shall be of opinion that a threat of war exists and shall in consequence make recommendations with a view to diminishing or putting an end to that threat, the High Contracting Parties hereby undertake to comply with such recommendation;

Provided always that nothing in this article shall compel any High Contracting Party to comply with any such recommendation of the Council which the High Contracting Party shall deem to be inconsistent with its national safety; but, in that case, it shall forthwith furnish to the Council its reasons for refusing to comply with the Council's recommendation.

ANNEX IV.
C.A.S./4th Session/Drafting Committee/2.

PROPOSAL BY THE PERUVIAN DELEGATION

Amendment to paragraph 3 of the Preamble:

"Have decided to achieve their common aim by means of a Treaty. This Treaty shall be signed by the delegations sent to the Assembly of the League of Nations on behalf of the States which prefer not to appoint special plenipotentiaries."

DRAFT TEXT OF CONVENTION ON FINANCIAL ASSISTANCE
Submitted by the Bureau.

ANNEX V.

Article 1A.

If a State, in violation of its international obligations, resorts to war against a High Contracting Party, the latter shall at its request receive the financial assistance provided for in the present Convention, unless the Council decide otherwise.

The High Contracting Party to which the financial assistance is accorded undertakes, for its part, to submit the dispute to mediation by the Council or to judicial or arbitral settlement.

Article 1B.

If the Council, in pursuit of its duty under the Covenant, and acting within the limit of its rights under the Covenant or under general or special Conventions applicable in the matter, shall, in any international dispute likely to lead to a rupture, have taken action to safeguard peace, including resort to mediation or any other means of pacification, and if either of the parties shall refuse or neglect to conform to such measures, the Council may, at the request of the adverse party, signatory to the present Convention, accord financial assistance to the last-named party.

The High Contracting Party to which financial assistance is accorded undertakes, for its part, to submit the dispute to mediation by the Council or to judicial or arbitral settlement and to conform to any provisional measures that might be recommended by the Council with a view to safeguarding peace.

Article 1C.

During the dispute by reason of which the financial assistance provided for in the present Convention is accorded, the High Contracting Parties undertake, without prejudice to the stipulations laid down in Article 16 of the Covenant, to give no help, direct or indirect, to any Powers that may be involved in a dispute with the High Contracting Party to which of the said financial assistance.
Article 6.

1. Subject to the provisions of Article 18 regarding payment of Interest in the event of default, the annual liability which can fall to the charge of any Government in the capacity of an ordinary guarantor, in respect of all the loans contracted in accordance with the present Convention, is limited to a maximum. This maximum shall be a sum bearing the same proportion to (100 million) gold francs as the Contribution to the League's expenses payable by the Government, under the scale of allocation applicable on (January 1st, 1930)² bears to the total contributions due from all the Members of the League.

In the case of a Government which was not liable to contribute to the League's expenses under the scale mentioned in the preceding sentence, the scale of allocation applicable on the date on which it became bound by the obligations of the present Convention shall be substituted for the said scale.

2. The Council shall, as soon as possible, notify to the various Governments the maximum annual liabilities which result for them from the provisions of paragraph 1.

Articles 7 and 8.

Article 9.

Articles 10, 11 and 12.

Paragraph 1.

Where the Council of the League of Nations decides, in virtue of Article 1A or 1B, that a High Contracting Party shall receive financial assistance under the present Convention, it shall authorise the Government of such High Contracting Party to issue a loan enjoying the ordinary guarantees and the special guarantees resulting from the present Convention. The Council may exclude the ordinary guarantee or special guarantee of any Government if, in its opinion, it would not be desirable in the interest of the success of the loan that such ordinary guarantee or special guarantee should attach to the loan.

Paragraphs 2 and 3.

Articles 14 and 15.

Articles 18, 19, 20, 21 and 22.

Article 22A.

Articles 23, 24 and 25.

Article 26.

1. Decisions of the Council under Article 1A or 1B shall be taken by the unanimous vote of the Members represented at the meeting, the votes of representatives of the parties to the dispute not being counted in determining such unanimity.

2. All other decisions taken by the Council in virtue of the present Convention shall be taken by a simple majority vote of the Members represented at the meeting, the votes of the representatives of the parties to the dispute not being counted.

3. A Member of the League which is not a Member of the Council shall not claim to sit on the Council, when the latter discusses questions arising under the present Convention, in virtue of the fact that it is an ordinary guarantor or special guarantor under the present Convention.

¹ See Introductory Note.
`Article A."

The entry into force of the present Convention, and its maintenance in force as regards authorisation of new loans, shall be conditional upon the entry into force and maintenance in force of a general plan for the reduction of armaments such as is contemplated by Article 8 of the Covenant of the League of Nations.

"The relation to be established between the entry into force, the maintenance in force and the application of the present Convention on the one hand, and the entry into force and observance of the disarmament plan on the other hand, shall be determined in detail by the Conference by which the said plan is adopted.

"Article B."

It shall also be a condition of the entry into force of the present Convention that the ratifications or accessions which it has received shall have resulted in causing a sum of not less than 50 million gold francs, for the annual service of loans, to be covered by ordinary guarantees and also by the special guarantees of not less than three Governments.

"Article C."

1. The present Convention shall enter into force ninety days after the date on which the conditions set out in Articles A and B are satisfied. The Secretary-General shall make the calculations necessary for the purpose of Article B. He shall notify the entry into force of the Convention to all the Members of the League.

2. In the case of High Contracting Parties ratifying or acceding to it after its entry into force, the Convention shall take effect on the day on which the instrument of ratification or accession is deposited with the Secretary-General of the League of Nations.

3. The total maximum amount covered by ordinary guarantees in accordance with Article 6 on the date of entry into force of the Convention, and any subsequent increase in that amount resulting from a new ratification or accession, shall be notified to all the Members of the League by the Secretary-General.

"Article D."

Subject to the conditions laid down in Article A, the following provisions shall apply:

1. The present Convention shall be concluded for a period of ten years dating from its entry into force.

(Article 30, paragraph 1 — unchanged.)

2. It shall continue in force for further successive periods of five years as between such High Contracting Parties as do not denounce it at least two years before the expiration of the current period.

(Article 30, paragraph 2 — unchanged.)

3. Denunciation shall be effected by a written notification deposited with the Secretary-General of the League of Nations, who shall notify its receipt to all the Members of the League. A denunciation may relate merely to the guarantee of the Government of a particular territory of the High Contracting Party.

(Article 30, paragraph 3 — unchanged.)

4. Notwithstanding the provisions of paragraph 2, the Convention shall cease to be in force, so far as it relates to the authorisation of new loans, at the end of the original period for which it is concluded, or of any successive period for which it continues in force, if at that date, as a result of denunciation, or of the operation of paragraph 7 below, the annual sum to which the ordinary guarantees amount is less than 50 million gold francs or the number of special guarantor Governments has fallen below three.

(Article 30, paragraph 4 — unchanged.)

5. The obligations of any Government in respect of loans already authorised in virtue of the present Convention shall not be affected by denunciation of the Convention, or by its ceasing to be in force, so far as it relates to the authorisation of new loans, under the provisions of paragraph 4 above or of Article A.

(Article 30, paragraph 5 — amended.)

6. If the ratifications or accessions necessary to bring the present Convention into force are not accorded within a period to be fixed by the Conference mentioned in Article A, the Convention shall not be capable of coming into force, unless the High
Contracting Parties which have already ratified or acceded to it shall decide to prolong such period.

"7. Withdrawal from the League of Nations shall, on the date on which it becomes effective, terminate all the rights and obligations of the Government concerned under the present Convention, except such obligations as already rest upon it in consequence of the authorisation of a loan in application of the Convention.

(Original text.)

ANNEX VI.

C.A.S./4th Session/Drafting Committee/10.

NOTE BY THE FRENCH DELEGATION
(CONNECTION BETWEEN FINANCIAL ASSISTANCE AND DISARMAMENT.)

A general Disarmament Convention may possibly not be brought at once into force, on account of the numerous questions that have still to be settled before that can be done. It seems unjustifiable that, in the event of a threat of war developing in the meantime, there should be no possibility of taking action to maintain the peace in virtue of the existence of a Convention on Financial Assistance.

Further, the desirability of establishing a link between financial assistance and disarmament should, we think, be understood in the sense that a State should not be able to benefit by financial assistance unless it has done everything that rests with it to carry out Article 8 of the Covenant. At the same time, it would be absurd that such a State, if attacked, should be deprived of financial assistance because it has not yet been possible for a general Disarmament Convention to come into force, owing, perhaps, precisely to the attitude of its aggressor.

The outcome of these considerations is embodied in the following text:

Additional Article.

Notwithstanding the provisions of Articles 1 and 13, no High Contracting Party which, within one year of the adoption of a scheme for the limitation and reduction of armaments by the General Disarmament Conference, has not carried out that scheme, so far as it is itself concerned, may benefit by the financial assistance provided for in the present Convention.

Notwithstanding the aforesaid provisions, the Council may at any time refuse the benefit of financial assistance to any High Contracting Party which does not discharge its international obligations as regards the limitation of its armaments.

ANNEX VII.

C.A.S./4th Session/Drafting Committee/14.

INTRODUCTORY NOTE TO THE DRAFT CONVENTION ON FINANCIAL ASSISTANCE

The principle underlying the draft Convention on Financial Assistance is this: that in the event of war, or of an international conflict likely to lead to a rupture, a State Member of the League should be given prompt and effective financial assistance in order to restore or preserve peace.

This assistance, it is proposed, should take the form of loans guaranteed by the contracting States.

The political importance of financial assistance has been often demonstrated. Suffice it to say here that the existence of a Convention such as the one proposed would have a preventive effect by deterring a State contemplating aggression. Furthermore, it would give a greater feeling of security and would thus help to advance the work of disarmament.

Having regard to the instructions given by the Assembly, the draft which the Committee on Arbitration and Security has prepared with the help of the Financial Committee embodies the complete text of a Convention. The Committee realised, however, that certain points ought to be left to the judgment of the plenipotentiaries who will establish the final text of the
The plenipotentiaries of the contracting Powers to come to a decision on the points in question, Convention. It has accordingly done no more than offer indications, leaving it to the majority of the Committee was of opinion that in case of war the question did not arise. That, on the other hand, the Council possesses discretionary powers to take a decision in case of war, it was the duty of the Council to grant financial assistance, or whether it might grant it according to circumstances. The different views put forward are embodied in the application of financial assistance in the last-named case being subject to special conditions.

The case of war and the case of an international dispute likely to lead to a rupture, the application of financial assistance in the last-named case being subject to special conditions.

Further, the Committee deemed it expedient to give effect to the desire expressed by certain delegations that the State receiving assistance should be obliged to enter into certain undertakings.

1. The Case of War. — The question raised in connection with Article 1A was whether, in case of war, it was the duty of the Council to grant financial assistance, or whether it might grant it according to circumstances. The different views put forward are embodied in the draft which was adopted. It was recognised as a principle that, in the case of a war in breach of international obligations, the State attacked has the right to financial assistance, but that, on the other hand, the Council possesses discretionary powers to take a decision constituting a departure from this principle.

As regards the undertaking which the party applying for financial assistance would be required to enter into, namely, to comply with the provisional recommendations of the Council, the majority of the Committee was of opinion that in case of war the question did not arise.

1B. The Case of an International Dispute likely to Lead to a Rupture. — In Article 1B, the Committee replaced the expression "case of threat of war" by the expression "case of an international dispute likely to lead to a rupture", in order to take account of the obligation entered into by the signatories of the Kellogg Pact not to resort to war as an instrument of national policy.

The text adopted by the majority of the Committee allows the Council to grant financial assistance if, inter alia, either of the parties to the dispute, whether Member or non-Member of the League, has refused or neglected to conform to the measures taken by the Council to safeguard peace.

Certain delegations, among them those of Canada, Germany, Italy and Japan, made reservations regarding this article. They were of opinion that the Council should not authorise a loan before war had broken out. The following text was proposed instead of Article 1B:

"If, in a crisis, the Council considers that there is a danger of war, it may notify the parties to the dispute that financial assistance will be granted to the State against which one of the parties to the dispute goes to war. At the same time, the Council will take all preparatory measures in order that financial assistance may be promptly accorded directly war breaks out."

2. Questions of spreading the Service of the Amortisation of the Loan over a Period in Instalments. — The question arose, in connection with Article 4, whether it would be possible to provide for rapid amortisation, starting from the very beginning, and to spread it over the whole period of the loan in equal instalments.

The Financial Committee was of opinion, however, that this procedure would involve serious technical and financial difficulties from the standpoint both of the issue of the loan and of the interests of the borrower.

3. Employment of Loan. — The Committee deemed it expedient to provide for the possibility of the Council making conditions as to the employment of the proceeds of the loan and the supervision of such employment. In order to dispel all doubt on the point, a special clause has been inserted in paragraph 2 of Article 14.
4. Participation of States not Members of the League. — The question arose whether it would not be expedient to provide for the possibility of States not Members of the League acceding to the Convention.

It appeared to the Committee that the admission of non-Member States would encounter both technical and constitutional difficulties.

From the technical point of view, not only would the accession of non-Member States involve a complete re-casting of a whole series of articles of the Convention, but it would be extremely difficult to devise a means of fixing the extent of the guarantees to be given by the said non-Member States. From the constitutional point of view, it was pointed out that the whole structure of the Convention was based on the Covenant, and that a State could hardly participate in this Convention on Financial Assistance without, at the same time, sharing in all the rights and duties established by the Covenant. In particular, it would be essential that States not Members of the League which acceded to the Convention should assume, at the same time, a definite obligation to adopt Article 17 of the Covenant, i.e., to recognise the Council's powers of arbitration. In these circumstances, the Committee thought it well to confine the participation of non-Member States to the guaranteeing of particular loans as provided for in Article 23.

5. Undertaking to facilitate the Issue of Guaranteed Loans. — The Committee on Arbitration and Security, in agreement with the representatives of the Financial Committee, decided that it would be well to provide, not only that the guarantor States should undertake to facilitate on their financial markets the issue of the loans authorised by the Council, but that they should also undertake to abstain from any measure calculated to compromise the efficacy of the financial assistance.

A clause of this nature inserted in Article 23 must obviously be of positive value in supplementing and reinforcing the direct measures provided for in Articles 1A and 1B.

6. Dispute relating to Interpretation and Application. — The Committee on Arbitration and Security, in agreement with the representatives of the Financial Committee, is of opinion that, if the Convention is to be efficacious, it is essential that decisions that may be taken under Articles 21 and 25 should not involve delay in the application of the Convention, and that they should be of a final character. Accordingly, any dispute relating to the interpretation or method of application of the Convention should be settled, in the last resort, by decision of the Council.

The suggestion put forward at the last Assembly to the effect that such decisions should rest with the Permanent Court of International Justice would tend to compromise the very delicate financial mechanism of the Convention by making it possible to re-examine decisions on the basis of which certain financial undertakings had been entered into.

7. Rules for Voting in the Council. — The Committee has adhered, as far as possible, in the wording of Article 28, to the terminology of the Covenant.

8. Connection between the Convention and Article 16 of the Covenant. — The Committee considered it advisable to insert in the Convention, a clause making it clear that the provisions of the Convention cannot be construed as affecting the rights and obligations of the contracting parties under the provisions of Article 16 of the Covenant.

9. Final Clauses. — After examining the suggestions put forward at the last Assembly, the majority of the Committee was of opinion that it was essential to establish a link with the Disarmament Convention and made the entry into force of the Convention on Financial Assistance conditional upon the entry into force of a plan for disarmament in conformity with Article 8 of the Covenant.

The decision to provide for correlation with the disarmament plan involved the complete recasting of Articles 29 and 30.

Further, for the reasons mentioned in the observations relating to Article 22, the Committee on Arbitration and Security was of opinion that a State which ceases to be a Member of the League of Nations should automatically cease to be a party to the Convention on Financial Assistance, though it would still be bound by its obligations as a guarantor of loans already authorised.

Further, several delegations suggested that it might be desirable, in order to encourage States to accede to or to ratify the Convention, to prevent those which have not acceded to it until after its entry into force from benefiting by the Convention until after a certain interval has elapsed since their ratification or accession.